IN THE HIGH COURT OF BOMBAY AT GOA

FIRST APPEAL NO.24/2000 WITH
MISCELLANEOUS CIVIL APPLICATION NO. 290/2005

1. Shri Ajay Krishna Bhagat,
s/o. Late Krishna Bhagat,
major in age, r/o. H.No.312,
Bhagatwada- Nagarcem, Canacona, Goa.

2. Shri Babusso Laxman Bhagat (deceased)
represented by his legal heirs;

a) Smt. Surekha alias Shenvtu
Babusso Bhagat, r/o. Bhagatwada-
Nagarcem, Canacona, Goa.

b) Smt. Vanita Umakant Desai;

c) Shri Umakant Uttam Desai,
both r/o. H.No.232, Quital- Fatorpa,
Quepem- Goa.

d) Shri Shashikant Babusso Bhagat;

e) Smt. Jyoti Shashikant Bhagat;

f) Miss Sheela Babusso Bhagat;

all r/o. H.No.1123, Bhagatwada-
Nagarcem, Canacona- Goa.

g) Smt. Anita Premanand Phaldesai,
Both r/o. H.No.540, Zoglemorod,
Quepem- Goa.

h) Shri Premanand K. Phaldesai,
both r/o. H.No.540, Zoglemorod,
Quepem- Goa

i) Smt. Kavita Saroj Desai;

j) Shri Saroj Bhiku Desai,
both r/o. Bhiumsa, Cuncolim,
Salcete-Goa. ..... Appellants/
Applicants.

V/s.

1. Special Land Acquisition Officer,
South Goa, K.R.C.L.,
Amey Guest House, Davorlim Road,
P.O. Navelim, Salcete, Goa.

2. The Chief Engineer,
K.R.C.L., 4th Floor, Souza Towers,
Church Square, Panaji-Goa
(appeal dismissed by the Addl.
Registrar vide Order dated 9.11.2000) ..... Respondents.

Mr. P.A. Kamat, Advocate for the appellants.

Mr. E. Afonso, Advocate for the respondent No.1.

CORAM : R.M. LODHA, J.

DATE : 23RD SEPTEMBER, 2005.

ORAL JUDGMENT

This appeal is directed against the Judgment and Award in Land Acquisition Case No. 138/95 delivered on 31st July, 1999 by the

Additional District Judge, South Goa, Margao (Reference Court).

2. A large tract of land was acquired for the purposes of new broad gauge line for Konkan Railway pursuant to the notification under Section 4 of the Land Acquisition Act, 1894 issued on 11.6.1991; published in the Official Gazette on 27.6.1991 and in the newspapers on 24.7.1991. This appeal concerns that acquisition of land admeasuring 7308 sq. metres from Survey Nos. 190/14 and 190/15(part) situated at Nagorcem-Palolem Village of Canacona Taluka. In respect of the acquired land, the appellants have 1/21st share in the acquired land admeasuring 4450 sq. metres from Survey No.190/14 and 1/7th share in the acquired land admeasuring 1200 sq. metres from Survey No.190/15. For the compulsory acquisition of the aforesaid land, the Special Land Acquisition Officer awarded compensation at the rate of Rs.9/- per sq. metre. The appellants aggrieved by the inadequate compensation awarded by the Special Land Acquisition Officer sought a reference and the matter was referred to the District Judge, South Goa, Margao. The appellant No.1 examined himself as AW.1 and one Agnelo Barreto as AW.2. The respondents examined Espirito Furtado, the Civil Engineer as RW.1. The Reference Court found no justifiable ground to enhance the compensation and maintained the compensation awarded by the

Special Land Acquisition Officer. Aggrieved thereby, the present appeal has been preferred.

3. The appellants have made Miscellaneous Civil Application No.290/2005 for production of additional evidence. The additional evidence that is sought to be produced by the appellants is in the nature of three sale deeds dated 19.1.1987, 18.4.1990 and 7.6.1990 and three awards dated 26.4.1999, 8.7.99 and 30.7.1999 in Land Acquisition Case Nos. 153/95, 147/95 and 139/95. By order dated 15.4.2005, the Miscellaneous Civil Application was ordered to be taken up along with the appeal.

4. The learned Counsel for the appellants as well as the respondents agreed and in my view fairly that in view of the Judgment dictated by me today in First Appeal No.23/2000 with Miscellaneous Civil Application No.291/05 that related to the similarly situated lands and under the same acquisition Notice and so also the Judgments of this Court in First Appeals No. 62/2000, 3/2000, 8/2002, 258/2000, 175/2002, 123/1999, 22/2001, 122/1999, 148/2000, 149/2000, 154/2000, 143/2000, 11/2000, 28/2000, 142/2000, 152/2000, 12/2000, 91/2001, 94/2002, 20/2002, 117/2001, 30/2002 and 5/2000, the first appeal may not be gone

into in details and for the selfsame reasons, the compensation may be awarded at the rate of Rs.19/- per sq. metre.

5. The submission of the learned Counsel for the parties is fair and reasonable. In view thereof, the appeal is partly allowed and the the market value of the subject-land is fixed at Rs.19/- per sq. metre (rupees nineteen per sq. metre). The reasons given in the Judgments referred to hereinabove may be treated as part of reasons in this appeal.

6. The appellants shall be entitled to :

(i) a sum of 30 % on the aforesaid market value by way of solatium;

(ii) an amount at the rate of 12 % per annum on the above market value for the period commencing on and from the date of publication of the Notification under Section 4(1) of the Land Acquisition Act 1894 in respect of the subject-land to the date of the Award of the Collector or the date of taking possession of the land, whichever is earlier;

(iii) interest on the excess awarded by this Court at the rate of 9 % per annum from the date on which possession of the

acquired land was taken till the date of payment of such excess amount for the period of one year;

(iv) interest at the rate of 15 % per annum from the date of expiry of the said period of one year on the amount of such excess award.

No costs. The First Appeal as well as the Miscellaneous Civil Application stand disposed of in the terms aforesaid.

R.M. LODHA, J.

Ssm.